IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 11671 of 2001

For Approval and Signature:

Hon'ble MR.JUSTICE RAVI R.TRIPATHI

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : NO

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the Civil Judge? : NO

MULIBEN WD/O. REVABHAI PARMAR

Versus

REGIONAL PROVIDENT FUND COMMISSIONER

Appearance:

1. Special Civil Application No. 11671 of 2001

MR KM SHETH for Petitioner No. 1

MR PJ MEHTA for Respondent No. 1

CORAM : MR.JUSTICE RAVI R.TRIPATHI

Date of decision: 19/02/2002

ORAL JUDGEMENT

1. Rule. With the consent of the parties, the matter is taken up for final disposal today.

2. The present petition is filed for the relief as

per Clause 3 of para 16 and para 17-A of the Employees' Pension Scheme, 1995. It is contended on behalf of the petitioner that children are not paid pension by the respondent authority despite the petitioner having succeeded before this Court in Special Civil Application No.7539/90 (Coram : R.A. Mehta, J) dated 21st March, 1998. Against the said order of the learned Single Judge, the present respondent had filed an appeal being Letters Patent Appeal No.645/1998 which came to be decided by an order dated 16th May, 1998 (Coram : The acting Chief Justice Mr.K.G. Balakrishnan and Mr.Justice J.M.Panchal). The appeal was dismissed. The question of paying the interest on the amount of arrears, as directed by the learned Single Judge was left to the authority for taking decision and for paying appropriate interest and arrears to the respondents within a period of six weeks from the date of the judgment. It is submitted by learned advocate appearing for the petitioner that S.L.P. being Civil Appeal No.6063/1998 was filed before the Hon'ble Apex Court by the present respondent and the said S.L.P. was also dismissed on 7th December, 2000, a copy of which is annexed as annexure-C to the petition. Mr.Sheth has submitted that under Clause 3 of para 16 of the Employees' Pension Scheme, 1995 and under the provisions of para 17-A the respondent authority is under an obligation to make payment to her children.

3. Taking into consideration the averments made in the petition, the contents of the order of the learned Single Judge, the contents of the judgment and order of Division Bench of this Court and the aforesaid two provisions the present petition is allowed. The respondent authority is directed to pay pension to the children under provisions of Clause 3 of para 16. The respondent authority shall work out the pension payable to the children within six weeks from the date of the receipt of this order and shall make the payment of the same within further four weeks. Rule is made absolute to the aforesaid extent.

(Ravi R. Tripathi, J.)

/phalguni/